

United States District Court

FILED
CLERKS OFFICE
2007 APR 16 P 1:28

Joseph P. Schmitt, pro se.
Plaintiff,
v.

U.S. DISTRICT COURT
DISTRICT OF MASS.

Robert Murphy, et al.,
Defendants

CA. # 2005-11348-NG

Affidavit in Support of Motion to Compel Discovery

Joseph P. Schmitt, being duly sworn, deposes and says:

1. I am the pro se plaintiff in this case. I make this affidavit in support of my motion to compel discovery.
2. On February 24, 2007, I served on the defendants' counsel a request for production of documents, which is attached to this affidavit as Exhibit 1.

3. Defendants did not respond to this request after 30 days, nor did they request an adjournment from the court or seek my agreement to an adjournment.

4. On March 23, 2007, I wrote to the defendants' counsel pointing out that their responses have not been received and requesting they respond immediately. A copy of my letter is attached as Exhibit 2.

WHEREFORE, the pro se plaintiff requests that the Court grant this motion in all aspects.

Dated: April 6, 2007

Signed under pains and penalties of perjury

Joseph P. Schmitt

Joseph P. Schmitt, pro se
Nemasket Correction Facility
30 Administration Road
Bridgewater, Ma. 02324

Exhibit
#1

UNITED STATES DISTRICT COURT

**JOSEPH P. SCHMITT, pro se.,
Plaintiff,**

v.

Docket No.:2005-11348-NG

**ROBERT MURPHY, et al.,
Defendants**

**REQUEST FOR PRODUCTION OF DOCUMENTS
AND THINGS...PURSUANT TO RULE 34**

Plaintiff, Joseph P. Schmitt, requests defendants

(1) To produce and permit plaintiff to inspect
and to copy each of the following documents:

(a) 103-CMR-481 Inmate Mail Policy in effect on
April 1,2005;

(b) 103-MTC-403A Inmate Property Policy in effect
on April 1,2005;

(c) 103-DOC-506 Search Policy in effect on
April 1,2005:

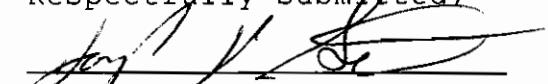
(d) Any and all departmental memos, reports,
transcripts, etc regarding the matter of plaintiff receiving an
\$800.00 money order from Lillian Bates;

(e) Any and all reports, memos, notes, transcripts,
etc., produced by or caused to be produced by Michael Kradolfer
with regards to the interview conducted by this official in late
April to early May 2005 as noted in this complaint's Exhibit "C";

(2) To produce a certified copy of, or the original
audio tape used to record the interview referred to above in (1)(e).

Dated: February 23,2007

Respectfully submitted,


Joseph P. Schmitt, pro se
Nemansket Corr. Facility
30 Administartion Road
Bridgewater, Massachusetts
02324-3230

CERTIFICATE OF SERVICE

I, Joseph P. Schmitt, hereby certify that a true copy
of the above document was served upon counsel of record for the
defendants via ~~prepaid first class U.S. Mail~~ on or about February
24, 2007

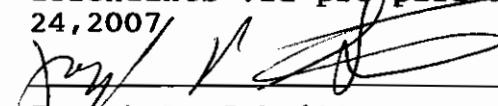

Joseph P. Schmitt, pro se

Exhibit
#2

Joseph P. Schmitt
Nemasket Correctional Facility
30 Administration Road
Bridgewater, MA. 02324-3230

Brendan J. Frigault, Counsel
Department of Correction
Legal Division
30 Administration Road
Bridgewater, MA. 02324-3230

March 23, 2007

RE: Schmitt v. Murphy USDC-2005-11348-NG

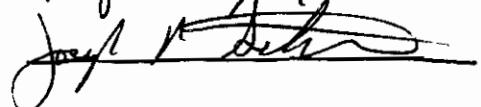
Dear Attorney Brendan Frigault.

On February 24, 2007 I served defendants through you
A, "Request for Production of Document And Things... Pursuant
to Rule 34."

The 30 day time limit to respond is nearly expired and
I have received no response. I do wish to avoid having to
move for a Court Order to compel so I respectfully request
your response immediately.

Please note that if you do not respond by April 6, 2007
I shall file a Motion to Compel Discovery

cc: JPS

Respectfully Yours


Certificate of Service

A true copy of the above documents were served upon defendants counsel Brendan J. Frigault via 1st class mail or Intra-facility mail on April 7, 2007

Joseph P. Schmitt

Joseph P. Schmitt, pro se
Nemasket Correctional Facility
30 Administration Road
Bridgewater, MA 02324